

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:09CR129
)	
v.)	
)	
BRYAN S. BEHRENS,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on three motions (Filings No. 268, Filing No. [272](#) and Filing No. [273](#)) filed by the defendant. In the first motion, the defendant moves the Court to clarify timing and filing of his notice of appeal of this Court's July 23, 2015, order (Filing No. [257](#)). Defendant then requests Filing No. [257](#) to be amended with additional facts and information. See Filing No. [272](#). Finally, the defendant requests the Court to grant leave to file an exhibit along with the amendment (Filing No. [272](#)) (Filing No. [273](#)).

On July 23, 2015, the Court issued an order denying defendant's request that Public Defender David R. Stickman be appointed to represent him in further judicial proceedings. The Court also denied defendant's objection to the government's request to obtain post-conviction garnishment. See Filing No. [257](#).

On August 10, 2015, the defendant filed a notice of appeal (Filing No. [261](#)). On August 19, 2015, the Court issued an order concluding that defendant's notice of appeal was untimely (Filing No. [264](#)). Defendant then requested the Court to clarify its August 19, 2015, order (Filing No. [268](#)). After review of defendant's motion, the Court ordered the plaintiff to file a response to defendant's motion to clarify timing and filing of his notice of appeal (Filing No. [269](#)). The United States government filed that response on September 21, 2015. The plaintiff treats the garnishment and defendant's objection as a civil action. See 28 U.S.C. § 3003(f); Filing No. [274](#).

In light of the defendant's motions and the plaintiff's response treating the post-conviction garnishment order and appeal as a civil rather than a criminal matter, the Court finds that defendant's motions should be granted and further finds defendant's appeal of the Court's July 23, 2015, order to be timely and will direct the Clerk of the Court to forward defendant's notice of appeal to the United States Court of Appeals for the Eighth Circuit.

IT IS ORDERED:

- 1) Defendant's motion to clarify timing and filing of Notice of Appeal is granted.
- 2) Defendant's motion to amend is granted.

3) Defendant's motion for leave to file an exhibit along with his amendment is granted.

4) The Clerk of the Court is directed to forward defendant's notice of appeal (Filing No. [261](#)) to the United States Court of Appeals of the Eighth Circuit as timely.

5) Defendant is permitted to proceed with his appeal to the Eighth Circuit *in forma pauperis*.

DATED this 23rd day of September, 2015.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court